

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

HELEN HEWETT,

Plaintiff,

v.

Civ. Action No. 3:21-CV-43
(Kleeh)

TRACY WEESE,

Defendant.

ORDER ADOPTING REPORT AND RECOMMENDATION [ECF NO. 13],
DISMISSING COMPLAINT, AND DENYING
PENDING MOTIONS AS MOOT [ECF NOS. 10, 12]

On March 22, 2021, the pro se Plaintiff, Helen Hewett ("Plaintiff"), filed a Complaint in this action. Two days later, United States District Judge Gina M. Groh transferred the case to the undersigned. Pursuant to 28 U.S.C. § 636 and the local rules, the Court referred the case to United States Magistrate Judge Robert W. Trumble (the "Magistrate Judge") for review.

On April 23, 2021, the Magistrate Judge entered a Report and Recommendation ("R&R"), recommending that the Court dismiss the Complaint without prejudice because the Court lacks subject matter jurisdiction. See ECF No. 13. The R&R also informed the parties that they had fourteen (14) days from the date of service of the R&R to file "specific written objections, identifying the portions of the Report and Recommendation to which objection is made, and the basis of such objection." Id. It further warned them that

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the “[f]ailure to file written objections . . . shall constitute a waiver of de novo review by the District Court and a waiver of appellate review by the Circuit Court of Appeals.” Id. Plaintiff accepted service of the R&R on April 26, 2021. See ECF No. 15. To date, no objections have been filed.

When reviewing a magistrate judge’s R&R, the Court must review de novo only the portions to which an objection has been timely made. 28 U.S.C. § 636(b)(1)(C). Otherwise, “the Court may adopt, without explanation, any of the magistrate judge’s recommendations” to which there are no objections. Dellarcirprete v. Gutierrez, 479 F. Supp. 2d 600, 603–04 (N.D.W. Va. 2007) (citing Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983)). Courts will uphold portions of a recommendation to which no objection has been made unless they are clearly erroneous. See Diamond v. Colonial Life & Accident Ins. Co., 416 F.3d 310, 315 (4th Cir. 2005).

Because no party has objected, the Court is under no obligation to conduct a de novo review. Accordingly, the Court reviewed the R&R for clear error. Upon careful review, and finding no clear error, the Court **ADOPTS** the R&R [ECF No. 13]. The Complaint is **DISMISSED WITHOUT PREJUDICE**. The pending motions for leave to proceed in forma pauperis [ECF Nos. 10, 12] are **DENIED AS MOOT**. This action is **STRICKEN** from the Court’s active docket.

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It is so **ORDERED**.

The Clerk is directed to transmit copies of this Order to the pro se Plaintiff via certified mail, return receipt requested, at the last known address as shown on the docket.

DATED: January 19, 2022

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE